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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,441	02/19/2004	George Zampetti	SYMM1210-2	5641
38396	7590	12/21/2004	EXAMINER	
JOHN BRUCKNER, P.C. 5708 BACK BAY LANE AUSTIN, TX 78739				NGUYEN, MINH T
			ART UNIT	PAPER NUMBER
			2816	

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/782,441	ZAMPETTI ET AL.
	Examiner	Art Unit
	Minh Nguyen	2816

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 November 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6, 15 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6, 15 and 27 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 2/19/04 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

1. Applicant's amendment filed on 11/26/04 has been received and entered in the case. The amendment, terminal disclaimer and argument presented therein overcome the informality objection, double patenting rejection, indefiniteness rejection and prior art rejection based on Bertacchini's reference, therefore, these are withdrawn. However, the prior art rejection based on Jones' reference is maintained for the reasons set forth below. This action is FINAL.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 15 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,078,595, issued to Jones et al.

As per claim 1, Jones discloses a method (Figs. 1 and 6), comprising:
receiving a pair of input clock signals (SYSCLK1 and SYSCLK2, col. 4, lines 18-24);
utilizing a stratum clock state machine (STR3 in clock module 16) to control a multiplexer (the selector which selects either TM12a or TM12b as a primary clock);
utilizing the MUX the select a main clock (column 4, lines 13-15, i.e., either TM12a or TM12b is selected as a primary);

inducing a phase build-out activity (STR3 is used to eliminate jitters, column 6, lines 15-20, also see Fig. 5) except when a skip timer is loaded (Fig. 5 and column 6, lines 16-18, i.e., the reference clock signal from the clock module 16 is required by the LIU 44 to perform the jitter attenuation. In other words, when the reference clock signal is in active mode, i.e., “not loaded”, jitter attenuation is performed and when the reference clock signal is in inactive mode, i.e., “loaded”, jitter attenuation is not performed); and

transmitting the output clock signal (the selected clock signal is transmitted).

As per claim 2, the recited limitation is discussed in claim 1 (one of the phase build-out activities: STR3 is used to eliminate jitters, column 6, lines 15-20, also see Fig. 5).

As per claim 3, Fig. 1, STR3 in module 16 manages PLLs 26 in TM 12a and TM12b.

As per claims 4-6, column 5, lines 30-40, i.e., stratum STR3 in unit 16 “performs the functions of stratum 3 holdover, free-run clock, and timing synchronization ...”.

As per claim 15, rejected for the same reason noted in claims 4-6.

As per claim 27, this claim is rejected for the same reasons noted in claim 1. Further, the recited method which is performed by a computer program is taught in column 4, lines 49-51, i.e., TMs 12a, 12b are controlled by a programmed CPU 31.

Response to Arguments

3. Applicant's argument filed 11/26/04 has been fully considered but it is not persuasive. The argument is that Jones does not teach or suggest the added limitation “except when a skip timer is loaded”.

As discussed in the preceding rejection, the limitation is explicitly taught in Fig. 5 and column 6, lines 16-18, i.e., the reference clock signal from the clock module 16 is required by the LIU 44 to perform the jitter attenuation. In other words, when the reference clock signal is in active mode, i.e., “not loaded”, jitter attenuation is performed and when the reference clock signal is in inactive mode, i.e., “loaded”, jitter attenuation is not performed.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Nguyen whose telephone number is 571-272-1748. The examiner can normally be reached on Monday, Tuesday, Thursday, Friday 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Callahan can be reached on 571-272-1740. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



12/16/02

Minh Nguyen
Primary Examiner
Art Unit 2816